

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF :
: **FINAL DECISION AND ORDER**
DAVID L. PAUSTIAN, D.O. : **FOR REMEDIAL EDUCATION**
:
: **000295 1**

Division of Legal Services and Compliance¹ Case No. 12 MED 244

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

David L. Paustian, D.O.
W3657 Maple Road
Neillsville, WI 54456

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Medical Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Licensee David Lowell Paustian, D.O., (dob September 30, 1964), is licensed in the State of Wisconsin to practice medicine and surgery, having license number 42083-21, first issued on May 5, 2000, with registration current through February 28, 2014. Licensee's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is W3657 Maple Road, Neillsville, Wisconsin 54456. Respondent is also licensed in Iowa, and is a general surgeon and general practitioner. He is not certified by any Board recognized by the American Osteopathic Association, or the American Board of Medical Specialties.

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

2. On June 8, 2012, the Board was notified by the Department of Health Services that it had substantiated allegations that, during the autumn of 2011 and winter of 2012, Respondent:

- a. Instructed surgical staff to cut off syringe needle guards on multiple occasions, including on February 9, 2012, contrary to hospital policy.
- b. On February 9, 2012, after a patient had arrived for scheduled surgery, refused to commence surgery until several demands were met by hospital administrators, including removal of the operating room managing nurse and reassignment of her office space to him as a dictation room, reassignment of all OR scheduling authority to himself personally, and an assurance that two named medical assistants would always be personally available to him.
- c. On multiple occasions, delayed the commencement of surgery after the administration of anesthesia, without medical purpose, including on October 21, 2011 (22 min.), January 31, 2012 (15 min.), February 7, 2012 (35 min.), February 24, 2012 (37 min.), and February 24, 2012 (38 min.), on each occasion by absenting himself from the operating room area without informing staff of his location, and including leaving the CRNA without any physician supervision.
- d. Repeatedly obstructed proper counts of surgical sponges.
- e. Repeatedly engaged in other disrespectful and intimidating behavior toward surgical staff.

3. Respondent disputes the above allegations, and any unprofessional conduct, but to resolve this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSION OF LAW

The Wisconsin Medical Examining Board is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.
2. Within 6 months of the date of this Order, David L. Paustian, D.O., shall, at Licensee's own expense, take and successfully complete an acceptable course in appropriate communication, such as:
 - a. "Managing Difficult Communications in Medical Practice: Controlling Anger, Avoiding Outbursts, Communicating Appropriately"; Case Western Reserve University School of Medicine.

- b. "Anger Management for Healthcare Professionals"; University of California at San Diego, Physician Assessment and Clinical Education Program.
 - c. "Program for Distressed Physicians"; Vanderbilt University School of Medicine, Center for Professional Health.
 - d. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. Licensee shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the courses from the Board or its designee. Licensee must take and pass any exam, and any follow-up, offered for the course(s).
 - e. Licensee shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any education requirements that have been or may be instituted by the Board or Department.
3. Within 6 months from the date of this Order, Licensee shall pay COSTS of this matter in the amount of \$7,550.
4. Request of approval of courses, proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Licensee to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Licensee's license. The Board in its discretion may in the alternative impose additional conditions and limitations for a violation of any of the terms of this Order. In the event Licensee fails to timely submit payment of the costs as ordered or fails to submit proof of successful completion of the ordered education as set forth above, Licensee's license (no. 42083-21) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Licensee has complied with payment of the costs and completion of the education.
6. This order does not constitute a disciplinary action under Wisconsin law.

7. This Order is effective on the date of its signing.

WISCONSIN MEDICAL EXAMINING BOARD

by:


A Member of the Board

akt

January 15, 2014
Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE LICENSE OF	:	
	:	
DAVID L. PAUSTIAN, D.O.	:	STIPULATION
	:	
	:	0002951

Division of Legal Services and Compliance¹ Case No. 12 MED 244

Licensee David L. Paustian, D.O., and the Division of Legal Services and Compliance, Department of Safety and Professional Services, stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Licensee consents to the resolution of this investigation by Stipulation.

2. Licensee understands that by signing this Stipulation, Licensee voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Licensee, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Licensee;
- the right to call witnesses on Licensee's behalf and to compel their attendance by subpoena;
- the right to testify on Licensee's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Licensee under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Licensee is aware of Licensee's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Kay & Andersen, LLC.

4. Licensee agrees to the adoption of the attached Final Decision and Order for Remedial Education by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order for Remedial Education without further notice, pleading, appearance or consent of the parties. Licensee waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be

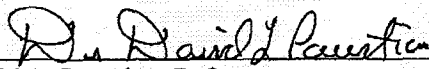
¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Licensee, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order for Remedial Education.

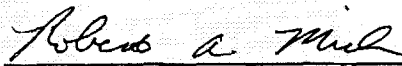
7. Licensee is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order for Remedial Education is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Licensee in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order for Remedial Education.



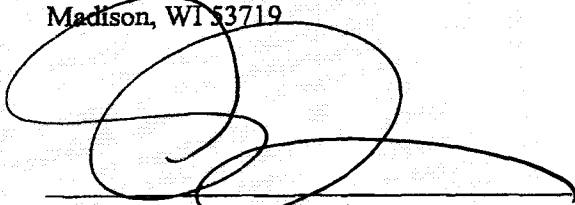
David L. Paustian, D.O.
W3657 Maple Road
Neillsville, WI 54456
License No. 42083-21

18DEC13
Date



Robert A. Mich, Jr., Attorney for Respondent
Law Offices of Kay & Andersen, LLC
One Point Place, Suite 201
Madison, WI 53719

12/19/13
Date



Arthur Thexton, Prosecuting Attorney
Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

12-20-13
Date